

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No.	CV 08-5450 ABC CR 07-1356 ABC	Date	January 14, 2009
Title	<u>Sergio Ricardo Ortiz-Lucatero v. United States of America</u>		

Present: The Honorable	Audrey B. Collins		
Daphne Alex	Not Present		N/A
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
None		None	
Proceedings:	ORDER TO SHOW CAUSE RE: FAILURE TO RESPOND TO MOTION FILED PURSUANT TO 28 U.S.C. § 2255 (In Chambers)		

On August 20, 2008, Petitioner Sergio Ricardo Ortiz-Lucatero filed a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. On September 22, 2008, this Court issued a briefing schedule for that motion, which included a deadline of November 4, 2008 for the Government to respond to the motion. On October 31, 2008, the Government filed an ex parte application seeking a 60 day extension to file its opposition to the motion, which included a declaration from Angela Fontova outlining the circumstances necessitating the extension. The Court granted that application. Thus, the Government was required to respond to the motion by January 5, 2009.

The Government failed to oppose the motion by the January 5, 2009 deadline. On January 9, 2009, the Court telephoned Ms. Fontova about the Government's failure to timely file responsive papers. Ms. Fontova requested an extension until January 12, 2009, but was informed that a formal motion must be filed if the Government sought any extension. To date, no such motion has been filed.

Accordingly, the Government is ORDERED to show cause not later than Tuesday, January 20, 2009, why Petitioner's motion should not be granted for the Government's failure to respond to it. Failure to file a timely response will be deemed consent to the granting of Petitioner's motion.

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Initials of Preparer                      DA

cc: Christine C. Ewell, Assistant United States Attorney, Chief, Criminal Division